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09/699,608	10/30/2000	Srinivas Gutta	US000257	6759

7590

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EXAMINER

KAZMI, OMAR A

ART UNIT

PAPER NUMBER

2173

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/699,608

Applicant(s)

GUTTA ET AL.

Examiner

Omar Kazmi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION*****Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "150" has been used to designate both a processor and a set-top terminal/television as shown in Figure 1,. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the relationship between reference #315 and the leave node TIME variable with TIME > 930 AM and POS =79.6 is not shown and a reference number is not assigned as described in the specification; an arrow should be drawn between STATION\_CALL\_SIGN and TIME and corresponding POS symbol should be assigned a reference figure number. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the discrete and continuous mapping of scores to color as described in claims 6, 7, 14, and 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 22 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. While the applicant discloses an article of manufacture for displaying available television programs comprising a computer readable medium having computer readable code, the applicant does not teach executing the computer readable code. Thus, the matter is non-statutory because the computer program will be unable to operate (for example, obtain a list of program information) unless the article of manufacture is able to execute the computer readable code.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 5 and 14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to show support for discretely mapping the score to a color as in claims 5 and 14.

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8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

9. Claims 7 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. The term "continuously" in claims 7 and 15 are relative terms that render the claims indefinite. The term "continuously" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. This term has been rendered indefinite because the term has multiple meanings and in light of the specification, no definitions are associated with these terms.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

11. Claims 1-7 and 12-15, 20-23 rejected under 35 U.S.C. 102(e) as being anticipated by Killian, US Patent Number 6,163,316. Regarding claims 1, 12, 20-23, Killian teaches a

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method and system for obtaining a list of available programs, obtaining a recommendation score for each of the available program and displaying the list of available program with an indication of one or more program attributes contributing to the recommendation. As stated in the abstract, Killian teaches a manner of obtaining program listing information for a plurality for a plurality of television programs as well as Col. 2, lines 1-13. Killian also teaches obtaining a recommendation score for each available program as discussed in Col. 11, lines 50-67 to Col.12. Finally, Killian teaches displaying a list of available program to a user with an indication of one or more program attributes contributing to said recommendation score as described in Col. 11, lines 22- 31. It is clear that this indication is a visual cue as further described in Col. 11, lines 32-39. As the JAVA-enabled receiver implicitly contains computer readable code on a computer readable medium to execute the code, which is implicitly implied as described in Col. 3, lines 1-37.

Regarding claim 2, with respect to claim 1 above, Killian teaches the method and system of claim 1 and 12 correspondingly, where the indication of one or more program attributes to recommendation score provides a component score of said program attributes as shown in Figure 4 as well as described in Col. 9, lines 43-67 to Col. 10, line 39. In Col.9, lines 43-67, Killian teaches one or more program attributes contributing to recommendation scores, such as genres, actor lists, sport template and keyword template. Also, Killian teaches a component score in the form of a program score “ indicating the desirability of the program to the viewer based on viewer profile 84 and program listing information 6.” ( Col 11, lines 56-58)

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Regarding claims 3, with respect to claim 1 above, Killian teaches a method and system with respect to claim 1 above where the indication of one or more program attributes contributing to the recommendation score indicates a most significant program attribute as disclosed on Col. 11, lines 65 –67 to Col. 12, where a user may select which program attribute is the most significant: “Ranking 88 for ‘comedy’ genre option 86 in viewer profile 84 might be a numeric value, such as ‘10’ or other suitable value, indicating that the viewer strongly prefers comedy programs. Similarly, ranking 88 for ‘Bill Cosby’ actor option 86 might be a ‘3’ or other value indicating that the viewer mildly prefers Bill Cosby programs, and ranking 88 for ‘fascinating’ keyword option 86 might be a ‘0’ or other value indicating that the viewer is neutral regarding programs with which ‘fascinating’ keyword option 86 might be associated.” It is clear in this example that the program attributes indicate a most significant program attribute based upon numerical value, such as the value associated with the “comedy” genre as described above.

Regarding claim 4, with respect to claims 1 and 12 above, Killian also teaches a method and system of claims 1 and 12 correspondingly above, where the indication of one or more program attributes contributes to recommendation score indicates a predefined number of program attributes. It is clear as described in Col. 3, lines 59 to Col. 4, lines 1-7: “For each program for which database 48 has listing information, program listing information 6 may include, without limitation: program dates; start times; stop times; a program length; program channels; program genres; a list of actors for the program; a list of sports teams to which the program may relate in some manner; keywords associated with the program that describe the program in some manner; a

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synopsis of the program; whether the program is a rerun, premiere, finale, miniseries, movie, special, or any other type of program; whether the program is a closed-captioned program; whether the program is in stereo; a Motion Picture Association of America (MPAA) rating or other rating for the program; content information concerning nudity, adult situations, adult language, violence, or other any other type of content; and any other appropriate program listing information 6.” Thus, it is clear that the number of the most significant program attributes is predefined based upon the weight given to each of the listing information given above.

Regarding claims 5 and 13 , with respect to claims 1 and 12 correspondingly above, Killian teaches a method and system for displaying available television programs as described in claims 1 and 12 correspondingly above, where the indication of one or more program attributes contributing to said recommendation score utilizes a color scheme. Killian discloses a color scheme as described in Col. 11, lines 28-45.

Regarding claims 6, 7, 14, and 15, with respect to claim 5 and 13 above correspondingly above, Killian teaches a color scheme which discretely as well as continuously maps the score to a color. As it indicated above, it is clear that Killian teaches an indicator that maps color-coded information to textual information about a program. It is also clear that Killian teaches discretely as well as continuously maps the score to the color as disclosed in Col. 4, lines the present invention “...the present invention contemplates a suitable database integral to receiver 10 and periodically updated by one or more service providers external to receiver 10 using link 14, for example, daily, weekly, or on any other periodic basis, to include program listing information 6 accessible to platform 12.” It is clear that service provider continuously



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updates the program listing information in discrete time periods, such as a daily, weekly or on any other basis. It is also clear that each television program is discretely mapped from a score to a color based upon user preferences. For example, it is clear that a score is mapped to a color discretely for each individual program based upon the attributes and the score associated with each color in order to distinguish the color for each program.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 9, 10, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian and Hanaya et al., US Patent Number 6,519,009, hereinafter referred to as Hanaya. While Killian teaches methods for displaying available television programs disclosed in claim 1 and 12 above, he fails to explicitly teach that the indication of one or more program attributes contribution to recommendation scores utilizes a variable rate-of-flicker and brightness scheme. Hanaya, however teaches a manner of navigating through a television program that utilizes variable brightness and blinking scheme. In his invention, Hanaya teaches reducing the brightness and blinking rate of the currently selected program tab on Col. 14, lines 50-60: "User can move the cursor(in this embodiment, the predetermined button icon is displayed in luminance (brightness), colors, or blinking different from other button icons to be used as the cursor, and in the case shown in FIG. 18, the cursor is positioned on the button icon of the general guide) in either direction by directionally operating the select button switch 131 to any of the eight

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directions on the horizontal surface". It would have been obvious to one of ordinary skill in the art to modify the method of displaying television programs of Killian to include the variable rate-of-flicker and brightness schemes of Hanaya to obtain a the method of displaying television programs including variable rate-of-flicker and brightness schemes.

One of ordinary skill in the art would have been motivated to modify the method of displaying television programs of Killian to include the variable rate-of-flicker and brightness schemes of Hanaya in order to provide a manner to distinguish programs in order to determine which program's attributes they are currently highlighting or selecting.

14. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian and Alexander et al, US Patent Number 6177931, hereinafter referred to as Alexander. While Killian teaches methods for displaying available television programs with an indication or visual cue of one or more program attributes contributing to the recommendation score but fails to explicitly teach that the recommendation score utilizes a variable bar height. However, Alexander teaches this in his electronic program guide invention on Col. 15, lines 65 to Col. 16, line 8: "A further improvement to the EPG User Interface ("UI") is the development of "Smooth Scrolling." When the cursor reaches the second tile from the bottom, and a new tile appears on the bottom, the entire tile and its contents, e.g., a program title, grow gradually in height until the newly appearing tile reaches full tile height. At the same time, the tile that is disappearing from the top of the screen, and the contents of that top tile, shrink in height until the tile is gone. This provides a smooth transition in the overall screen display but is not actually perceptible because it is changing at 1/60 of a sec." ". It would have been obvious to one of ordinary skill in the art to modify the indicator or visual cue of Killian to include the variable

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height scheme of Alexander to obtain a method of displaying television programs including variable rate-of-flicker and brightness schemes. One of ordinary skill in the art would have been motivated to modify the method of visual cue of Killian to include the variable height scheme of Hanaya in order to provide a dynamic manner of scrolling a program guide with visual cue or indicator in order to provide a user the feel of scrolling a program guide.

15. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian and Mugura US Patent Number 6518986. While Killian teaches methods for displaying available television programs with an indication or visual cue of one or more program attributes contributing to the recommendation score, he fails to explicitly teach a recommendation score that utilizes a variable size-of-text scheme. However, Mugura teaches a variable size-of-text scheme in his electronic program guide invention as shown in Figure 17 and described in Col. 11, lines 1-34. It would have been obvious to one of ordinary skill in the art to modify the method of displaying television programs with visual cue or indication to include the variable size-of-text scheme of Mugura to obtain a method of displaying television programs including variable size-of-text schemes. One of ordinary skill in the art would have been motivated to modify the method of displaying television programs with indication or visual cue of Killian to include the variable size-of-text scheme of Mugura in order to provide a manner to maximize the number of characters within a display area.

### ***Conclusion***

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to

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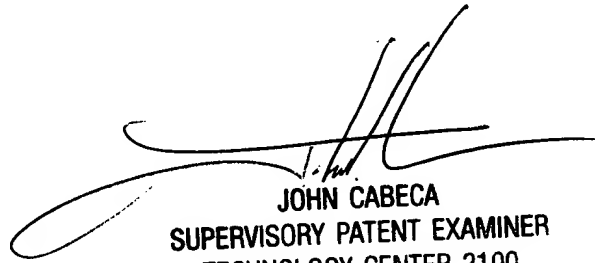
consider these references fully when responding to this action. The documents cited therein teach prior art related directly to electronic program guides with different visual cues and/or indications to aid recommendation scores.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Kazmi whose telephone number is 703-305-4894. The examiner can normally be reached on Monday - Friday 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on 703-308-3116. The fax phone numbers for the organization where this application or proceeding is assigned are 703-747-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3500.

OK  
February 26, 2003



JOHN CABECA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100